

FLUE-CURED AND BURLEY TOBACCO MARKETING QUOTA REGULATIONS 1947-48 MARKETING YEAR

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

[Tobacco 13, Part II (1947)]

PART 725—BURLEY AND FLUE-CURED TOBACCO

SUBPART—1947-48 MARKETING YEAR

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AUTHORITY: §§ 725.330 to 725.360, inclusive, issued under 52 Stat. 38, 40, 42, 47, 48, 55, 66, 202, 204, 586; 53 Stat. 1261, 1262; 54 Stat. 393, 394, 727, 728; 57 Stat. 387; 58 Stat. 136; 60 Stat. 21; 7 U. S. C. and Sup., 1301-1393.

GENERAL

§ 725.330 Basis and purpose. Sections 725.330 to 725.360, inclusive, are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and

govern the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of flue-cured and Burley tobacco during the 1947-48 marketing years. Prior to preparing §§ 725.330 to 725.360, inclusive, public notice (12 F. R. 235) of their formulation was given in accordance with the Administrative Procedure Act (60 Stat. 237). The data, views and recommendations pertaining to §§ 725.330 to 725.360, inclusive, which were submitted have been duly considered within the limits prescribed by the act, in formulating the procedural provisions of §§ 725.330 to 725.360, inclusive.

§ 725.331 Definitions. As used in §§ 725.330 to 725.360, inclusive, and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "County committee" means the group of persons elected within a county to assist in the administration of the Agricultural Conservation Program in such county.

(c) "Dealer or buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(d) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Field Service Branch, Production and Marketing Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(e) "Field assistant" means any duly authorized employee of the United States Department of Agriculture, and any duly authorized employee of a county committee whose duties involve the prepara-

tion and handling of records and reports pertaining to tobacco marketing quotas.

(f) "Floor sweepings" means scraps, leaves, or bundles of tobacco, generally of inferior quality, which accumulate on the warehouse floor and which not being subject to identification with any particular lot of tobacco are gathered up by the warehouseman for sale in the form accumulated. Floor sweepings shall not include tobacco defined as "pick-ups."

(g) "Leaf account tobacco" means all tobacco purchased by or for a warehouseman and "leaf account" shall include the records required to be kept and copies of the reports required to be made under §§ 725.330 to 725.360, inclusive, relating to tobacco purchased by or for a warehouseman and resales of such tobacco.

(h) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(i) "Nonwarehouse sale" means any first marketing of farm tobacco other than by sale at public auction through a warehouse in the regular course of business.

(j) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(k) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(l) "Pick-ups" means any tobacco previously marketed at auction but not delivered to the buyer because of rejection by the buyer, loss of identification, or any other reason. Pick-ups shall include any tobacco sorted and reclaimed from leaves or bundles which have fallen to the warehouse floor in the usual course of business.

(m) "Producer" means a person who, as owner, landlord, tenant, sharecropper, or laborer is entitled to share in the tobacco available for marketing from the farm, or in the proceeds thereof.

(n) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(o) "Resale" means the disposition by sale, barter, exchange or gift inter vivos, of tobacco which has been marketed previously.

(p) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(q) "Scrap tobacco" means the residue which accumulates in the course of preparing flue-cured tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(r) "Secretary" means the Secretary or Acting Secretary of Agriculture of the United States.

(s) "State Committee" means the group of persons designated as the State Committee of the Production and Marketing Administration, charged with the responsibility of administering Production and Marketing Administration programs within the State.

(t) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(u) "Tobacco" means flue-cured tobacco types 11, 12, 13, and 14, or Burley tobacco, type 31, as classified in Service and Regulatory Announcement No. 118 (7 CFR, Part 30) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or both, as indicated by the context.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as either flue-cured or Burley tobacco shall be considered flue-cured or Burley tobacco, as the case may be, regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(v) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1947 and all tobacco produced on the farm prior to the calendar year 1947 and carried over to the 1947-48 marketing year, which is not disposed of in accordance with § 725.343.

(w) "Tobacco subject to marketing quotas" means:

(1) Any flue-cured tobacco marketed during the period July 1, 1947 to June 30, 1948, inclusive, and any flue-cured tobacco produced in the calendar year 1947 and marketed prior to July 1, 1947.

(2) Any Burley tobacco marketed during the period October 1, 1947 to September 30, 1948, inclusive, and any Burley tobacco produced in the calendar year 1947 and marketed prior to October 1, 1947.

(x) "Trucker" means a person who engages in the business of trucking tobacco to market and selling it for producers regardless of whether the tobacco is acquired from producers by the trucker.

(y) "Warehouseman" means a person engaged in the business of holding sales of tobacco at public auction at a warehouse.

(z) "Warehouse sale" means a marketing by a sale at public auction through a warehouse in the regular course of business.

§ 725.332 Instructions and forms. The Director, Tobacco Branch, Production and Marketing Administration shall cause to be prepared and issued such instructions and forms as may be necessary for carrying out §§ 725.330 to 725.360, inclusive.

§ 725.333 Extent of calculations and rule of fractions. (a) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than a tenth shall be dropped.

(b) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 725.334 Amount of farm marketing quota. The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment, as established for the farm in accordance with §§ 725.311 to 725.326, inclusive (Tobacco 13, Part I, Flue-cured and Burley Tobacco Marketing Quota Regulations, 1947-48, as amended) (11 F. R. 10251; 12 F. R. 61). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1947 times the number of acres harvested in excess of the farm acreage allotment, plus (b) any quantity of tobacco carried over from a prior marketing year which, if marketed during the 1946-47 marketing year, would have been subject to penalty when marketed. The acreage of tobacco determined for a farm for the purpose of issuing the correct marketing card for the farm, as provided in § 725.336, shall be considered the harvested acreage for the farm unless the farm operator furnishes proof satisfactory to the county committee that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage harvested will be disposed of other than by marketing.

§ 725.335 No transfers. There shall be no transfer of farm marketing quotas.

§ 725.336 Issuance of marketing cards. A marketing card shall be issued for every farm having tobacco available for marketing. Subject to the approval of the county committee, two or more marketing cards may be issued for any farm. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the office of the county committee of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new

marketing card of the same kind shall be issued to replace a card which has been reported to the county committee as having been lost, destroyed, or stolen.

(a) **Within Quota Marketing Card (Tobacco 20).** A Within Quota Marketing Card authorizing the marketing without penalty of the tobacco available for marketing shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1947 is not in excess of the farm acreage allotment; if any excess tobacco carried over from any prior marketing year can be marketed without penalty under the provisions of § 725.342 (b); and if the operator of the farm does not operate another farm having excess tobacco.

(2) If excess tobacco produced on the farm is disposed of in accordance with § 725.343, or

(3) If the tobacco was grown for experimental purposes on land owned or leased by a publicly-owned agricultural experiment station and is produced at public expense by employees of the experiment station, or if the tobacco was produced by farmers pursuant to an agreement with a publicly-owned experiment station whereby the experiment station bears the costs and risks incident to the production of the tobacco and the proceeds from the crop inure to the benefit of the experiment station; *Provided*, That such agreement is approved by the State Committee prior to the issuance of a marketing card for the farm.

(b) **Excess Marketing Card (Tobacco 21).** An Excess Marketing Card showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued unless a within quota card is required to be issued for the farm under paragraph (a) of this section, except that if (1) the farm operator fails to disclose or otherwise furnish, or prevents the county committee from obtaining any information necessary to the issuance of the correct marketing card, an excess marketing card shall be issued showing that all tobacco from the farm is subject to the rate of penalty set forth in § 725.345, or (2) the county committee determines that it is necessary to issue a "zero-penalty" excess marketing card in order to protect the interest of the Government and insure proper identification of and accounting for tobacco produced on the farm and the proper use of the marketing card issued for the farm.

§ 725.337 Person authorized to issue cards. The county committee shall designate one person to sign marketing cards for farms in the county as issuing officer. The issuing officer may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards; *Provided*, That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 725.338 Rights of producers in marketing cards. Each producer having a share in the tobacco available for marketing from a farm shall be entitled to

the use of the marketing card for marketing its proportionate share.

§ 725.339 *Successors, in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 725.340 *Invalid cards.* A marketing card shall be invalid if:

- (a) It is not issued or delivered in the form and manner prescribed;
- (b) Entries are omitted or incorrect;
- (c) It is lost, destroyed, stolen, or becomes illegible;
- (d) Any erasure or alteration has been made, and not properly initialed.

In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which cannot be corrected by a field assistant), the farm operator, or the person having the card in his possession, shall return it to the county office at which it was issued.

If an entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by a field assistant, then such card shall become valid.

§ 725.341 *Report of misuse of marketing card.* Any information which causes a field assistant, a member of a State, county, or community committee, or an employee of a State or county committee, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the State Committee.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 725.342 *Extent to which marketings from a farm are subject to penalty.* (a) Marketings of tobacco from a farm having no "carry-over" tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 725.343 by the total acreage of tobacco harvested from the farm.

(b) Marketings of tobacco from a farm having "carry-over" tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carry-over" acres by dividing the number of pounds of "carry-over" tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over" acres by multiplying the "carry-over" acres (subparagraph (1) of this paragraph) by the "percent within quota" (i. e., 100 percent minus the "percent excess") for the year in which the "carry-over" tobacco was produced.

(3) Determine the "total acres" of

tobacco by adding the "carry-over" acres (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1947 allotment and the "within quota carry-over" acres (subparagraph (2) of this paragraph).

(5) Determine the percentage subject to penalty by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(6) The burden of any penalty with respect to "carry-over" tobacco shall be borne by those persons having an interest in such tobacco.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 725.343 *Disposition of excess tobacco.* The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by any of the following methods:

(a) By a declaration of intention to market all tobacco available for marketing and the payment at the office of the county committee by check or draft or, if required by the county committee, by certified check, cashier's check or postal money order drawn payable to the Treasurer of the United States, in an amount equal to the penalty which would be due upon the marketing of all tobacco available for marketing. Any additional amount of penalty due after all marketings of tobacco from the farm have been made shall be paid by the operator not later than 20 days after receipt of notice of such additional penalty. Any amount collected in excess of the penalty due shall be refunded.

(b) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1947 crop produced on the farm, and posting of a bond approved by the county committee and the State Committee in the penal sum of twice the amount of penalty which will become due upon the marketing of the excess tobacco.

(c) By furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

§ 725.344 *Identification of marketings.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the marketing card (Tobacco 20 or Tobacco 21) issued for the farm on which the tobacco was produced. In addition, in the case of nonwarehouse sales each marketing shall be identified by an executed bill of nonwarehouse sale (reverse side of memorandum of sale) except that such form is not required to be executed by warehousemen who are authorized on Tobacco 23 to issue memoranda of sale.

(a) *Memorandum of sale.* If a memorandum of sale is not executed to identify a warehouse sale of producer's tobacco by the end of the sale day on which the tobacco was marketed, the marketing shall be a suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed within four weeks after such sale day, the marketing shall be identified by Tobacco 28, Sale Without Marketing Card as a marketing of excess tobacco. The memorandum of sale or Tobacco 28 shall be executed only by a field assistant with the following exceptions:

(1) A warehouseman, or his authorized representative, who has been designated on Tobacco 23 may issue a memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the marketing card is presented. Each memorandum of sale issued by a warehouseman to cover a warehouse sale shall be presented promptly by him to the field assistant for verification with the warehouse records.

(2) In the case of flue-cured tobacco only, a dealer, or his authorized representative, operating a receiving point for scrap tobacco at a redrying plant (and other regular receiving points operated by such dealer or his agent or employees) or at an auction warehouse, who keeps records showing the information specified in § 725.352, and who has been authorized on Tobacco 23, may issue a memorandum of sale covering a purchase of scrap tobacco only if the bill of nonwarehouse sale has been executed.

The authorization on Tobacco 23 to issue memoranda of sale may be withdrawn by the State Committee from any warehouseman or dealer if such action is determined to be necessary in order to properly enforce the provisions of §§ 725.330 to 725.360, inclusive. The authorization shall terminate upon receipt of written notice setting forth the State Committee's reason therefor.

Each excess memorandum of sale issued by a field assistant shall be verified by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the memorandum of sale.

(b) *Bill of nonwarehouse sale.* Each nonwarehouse sale shall be identified by a bill of nonwarehouse sale completely executed by the buyer and the farm operator, except that if such tobacco is purchased by or for a warehouseman who is authorized on Tobacco 23 to issue memoranda of sale, he or his representative who is also authorized shall issue a memorandum of sale identifying each such purchase, record the purchase in Tobacco 25, Dealer's Record, and attach thereto the county copy of the memorandum of sale.

The word "scrap" shall be plainly written on any bill of nonwarehouse sale or memorandum of sale executed to cover scrap tobacco, and all such bills of nonwarehouse sale shall be delivered to a person at a scrap receiving point

who is authorized to issue memoranda of sale.

Each bill of nonwarehouse sale covering any marketing except scrap tobacco shall be presented to a field assistant for the issuance of a memorandum of sale and for recording in Tobacco 25.

§ 725.345 *Rate of penalty.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas shall be nineteen (19) cents per pound in the case of flue-cured tobacco and sixteen (16) cents per pound in the case of Burley tobacco.

With respect to tobacco marketed from farms having excess tobacco available for marketing the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm quota is of the total amount of tobacco available for marketing from the farm.

§ 725.346 *Persons to pay penalty.* The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Warehouse sale.* The penalty due on marketings by a producer through a warehouse shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonwarehouse sale.* The penalty due on tobacco purchased directly from a producer other than at public auction through a warehouse (nonwarehouse sale) shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a warehouseman shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Marketings outside United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 725.347 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco.

(a) *Warehouse sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid memorandum of sale within four weeks following the date of marketing shall be identified by a Tobacco 28, and shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the amount due the producer.

(b) *Nonwarehouse sale.* Any nonwarehouse sale which (1) is not identified by a valid memorandum of sale and (2) is not recorded in Tobacco 25 within one week following the date of purchase, or (3) if purchased prior to the opening of the local auction markets, is not recorded in Tobacco 25 within one week following the first sale day of the local auction markets, shall

be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing by a warehouseman which such warehouseman represents to be a leaf account resale but which when added to prior leaf account resales, as reported under §§ 725.330 to 725.360, inclusive, is in excess of prior leaf account purchases shall be deemed to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the Director, Tobacco Branch, Production and Marketing Administration, showing that such tobacco is not a marketing of excess tobacco. The penalty found to be due thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale but which when added to prior resales by such dealer is in excess of the total of his prior purchases as reported on Tobacco 25 shall be deemed to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the Director, Tobacco Branch, Production and Marketing Administration, showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Marketings not reported.* Any resale of tobacco which under §§ 725.330 to 725.360, inclusive, is required to be reported by a warehouseman or dealer but which is not so reported within the time and in the manner required by §§ 725.330 to 725.360, inclusive, shall be deemed to be a marketing of excess tobacco unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the Director, Tobacco Branch, Production and Marketing Administration. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Producer marketings.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1947 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. The penalty thereon shall be paid by the producer.

§ 725.348 *Payment of penalty.* Penalties shall become due at the time the tobacco is marketed and shall be paid by remitting the amount thereof to the State Committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

If the penalty due on any warehouse sale of tobacco by a producer as determined under §§ 725.330 to 725.360, inclusive, is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the

warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (a) advances to producers, (b) charges for hauling, or (c) any other charges not usually incurred by producers in marketing tobacco through an auction warehouse.

§ 725.349 *Request for return of penalty.* Any producer of tobacco, after the marketing of all tobacco available for marketing from the farm, and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 725.330 to 725.360, inclusive, to be paid. Such request shall be filed with the county committee within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 725.350 *Producer's records and reports—(a) Report on marketing card.* The operator of each farm on which tobacco is produced in 1947 shall return to the office of the county committee each marketing card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within the time specified (after formal notification) shall constitute failure to account for disposition of tobacco marketed from the farm in the event that a satisfactory account of such disposition is not furnished otherwise and the allotment next established for such farm shall be reduced.

(b) *Additional reports by producers.* In addition to any other reports which may be required under §§ 725.330 to 725.360, inclusive, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment and even though no allotment was established for the farm) shall upon written request by registered mail from the State committee and within 10 days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary a written report of the disposition made of all tobacco produced on the farm by sending the same to the State committee showing, as to the farm at the time of filing said report, (1) the number of acres of tobacco harvested, (2) the total production of tobacco, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested or the filing of a report which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced.

§ 725.351 *Warehouseman's records and reports*—(a) *Record of marketing*. Each warehouseman shall keep such records as will enable him to furnish the Secretary the following information with respect to each sale or resale of tobacco made at his warehouse:

- (1) Name of seller (and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco was produced).
- (2) Name of purchaser.
- (3) Date of sale.
- (4) Number of pounds sold.
- (5) Gross sale price.
- (6) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer.

Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

- (i) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.
- (ii) Purchases and resales for the warehouse leaf account.
- (iii) Resales of floor sweepings.
- (iv) Resales of pick-ups.

Any warehouseman who grades tobacco for farmers shall maintain a separate account showing the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

In the case of resales for dealers the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register*. The serial number of the memorandum of sale issued to identify each marketing of tobacco from a farm or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale and bill of nonwarehouse sale*. A record in the form of a valid memorandum of sale or a sale without marketing card shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through the warehouse and each nonwarehouse sale of tobacco purchased by the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman who is not authorized on Tobacco 23 to issue memoranda of sale, no memorandum of sale shall be issued unless the bill of nonwarehouse sale on the reverse side of the memorandum is executed. Any warehouseman who obtains possession of any scrap tobacco in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such scrap.

(d) *Suspended sale record*. Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "Suspended", write thereon the serial number of the suspended sale, and record the bills on Tobacco 29, Field Assistant's Report: *Provided*, That if a field assistant is not available, the warehouseman may stamp such bills "Suspended" and deliver them

to a field assistant when one is available.

(e) *Warehouse entries on dealer's record*. Each warehouseman shall enter on Tobacco 25 the total purchases and resales made by each dealer or other warehouseman during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1947 the entry on Tobacco 25 shall clearly show such fact.

(f) *Record and report of purchases and resales*. Each warehouseman shall keep a record and make reports on Tobacco 25, Dealer's Record, showing:

(1) All purchases of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales).

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

The county copy of each memorandum of sale issued to identify each purchase under subparagraph (1) of this paragraph shall accompany the report on which such purchase is recorded.

(g) *Season report of warehouse business*. Each warehouseman shall furnish the State Committee not later than thirty (30) days following the last sale day of the marketing season a report on Tobacco 26, Auction Warehouse Report, showing for each dealer or buyer (1) the total pounds and gross price of tobacco purchased and resold on the warehouse floor during the 1947-48 marketing year and (2) the total pounds and gross price of tobacco purchased and resold by such warehouseman during the 1947-48 marketing year.

(h) *Report of penalties*. Each warehouseman shall make reports on Tobacco 27, Report of Penalties, showing the information required with respect to each sale subject to penalty. Tobacco 27 shall be prepared for each week and forwarded, together with remittance of the penalties due, as shown thereon, to the State Committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(i) *Report of resales*. Each warehouseman shall make reports on Tobacco 32, Report of Resales, showing the information required with respect to each resale of tobacco at auction on the warehouse floor. Tobacco 32 shall be prepared for each sale day and forwarded to the State Committee not later than the end of the calendar week following the week in which the tobacco was resold.

§ 725.352 *Dealer's records and reports*. Each dealer, except as provided in § 725.353, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number*. Each dealer shall properly execute and the field assistant shall detach and forward to the State Committee "Receipts for Dealer's Record" contained in Tobacco 25 which is issued to the dealer.

(b) *Record and report of purchases and resales*. Each dealer shall keep a

record and make reports on Tobacco 25, Dealer's Record, showing all purchases and resales of tobacco made by the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1947 the fact that such tobacco was bought by him and carried over from a crop produced prior to 1947.

(c) *Report of penalties*. Each dealer shall make a report on Tobacco 27, Report of Penalties, showing the information with respect to all purchases subject to penalty made by him during each calendar week. The penalties listed on each such report shall be remitted with the report.

(d) *Memorandum of sale and bill of nonwarehouse sale*. A record in the form of a valid memorandum of sale shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than at auction through a warehouse (nonwarehouse sale). No memorandum of sale shall be issued identifying such purchase unless the bill of nonwarehouse sale, on the reverse side of the memorandum of sale, has been executed.

(e) *Record and report of scrap tobacco*. Each dealer operating a receiving point for scrap tobacco who has been authorized on Tobacco 23 to issue memoranda of sale, shall keep a record and make reports on Tobacco 25 showing all tobacco received. Such reports shall be accompanied by memoranda of sale and bills of nonwarehouse sale with respect to all tobacco covered by the reports.

(f) *Additional records*. Each dealer shall keep such records, in addition to the foregoing, as may be necessary to enable him to furnish the Secretary the following information with respect to each lot of tobacco purchased or sold by him:

(1) Name of the seller, and in the case of a purchase from a producer, the name of the operator of the farm on which the tobacco was produced.

(2) Name of the purchaser.

(3) Date of the transaction.

(4) Number of pounds sold.

(5) Gross purchase or sale price.

(6) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer.

(7) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to 1947 the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the State Committee not later than the end of the week following the calendar week covered by the reports.

§ 725.353 *Dealers exempt from regular records and reports*. Any dealer who does not purchase or otherwise acquire tobacco except at a warehouse sale and who does not resell, in the form in which tobacco ordinarily is sold by farmers, more than ten percent of the tobacco purchased by him, shall not be subject to the provisions of § 725.352; but each such dealer shall make such reports to the Secretary as the Director, Tobacco Branch, Production and Marketing Administration, may find necessary to enforce §§ 725.330 to 725.360, inclusive.

§ 725.354 *Records and reports of truckers and persons redrying, prizing or stemming tobacco.* (a) Every person engaged in the business of trucking tobacco for producers shall keep such records as will enable him to furnish the Secretary a report with respect to each lot of tobacco received by him showing (1) the name and address of the farm operator, (2) the date of receipt of the tobacco, (3) the number of pounds received, and (4) the place to which it was delivered.

(b) Every person engaged in the business of redrying, prizing, and stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary a report showing (1) the information required above for truckers, and in addition, (2) the purpose for which the tobacco was received, (3) the amount of advance made by him on the tobacco, and (4) the disposition of the tobacco.

Each such person shall make such reports to the Secretary as the Director, Tobacco Branch, may find necessary to enforce §§ 725.330 to 725.360, inclusive.

§ 725.355 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as a warehouseman, dealer, processor, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 725.356 *Failure to keep records or make reports.* Any warehouseman,

dealer, processor or common carrier of tobacco, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 725.330 to 725.360, inclusive, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Director, Tobacco Branch.

§ 725.357 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, dealer, processor, common carrier or person engaged in the business of redrying, prizing, or stemming tobacco for producers shall make available for examination upon written request by the State Committee or Director, Tobacco Branch, such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as the State Committee

or Director, Tobacco Branch, has reason to believe are relevant and are within the control of such person.

§ 725.358 *Length of time records and reports to be kept.* Records required to be kept and copies of the reports required to be made by any person under §§ 725.330 to 725.360, inclusive, for the 1947-48 marketing year shall be kept by him until June 30, 1950, in the case of fire-cured tobacco and September 30, 1950, in the case of Burley tobacco. Records shall be kept for such longer period of time as may be requested in writing by the Director, Tobacco Branch.

§ 725.359 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 725.330 to 725.360, inclusive, shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members and employees of county committees and only such data so reported or acquired as the Director, Field Service Branch, Production and Marketing Administration, deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

§ 725.360 *Redelegation of authority.* Any authority delegated to the State Committee by these regulations may be redelegated by the State Committee.

NOTE: The record keeping and reporting requirements of these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Budget Bureau No. 40-R1281.2.

Done at Washington, D. C. this 9th day of May 1947. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

CLINTON P. ANDERSON,
Secretary of Agriculture.

